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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,376	10/25/2005	David Fenn	SWIN 3307	8192
7812 7590 01/18/2008 SMITH-HILL AND BEDELL, P.C. 16100 NW CORNELL ROAD, SUITE 220 BEAVERTON, OR 97006			EXAMINER HUYNH, LOUIS K	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 01/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/549,376

Applicant(s)

FENN, DAVID

Examiner

Louis K. Huynh

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31,37,38,41,46-48 and 58-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31,37,38,41,46-48 and 58-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in response to the reply filed 11/16/2007.

#### ***Status of the Claims***

- Claims 1-30 were previously cancelled.
- Claims 32-36, 39, 40, 42-45 and 49-57 were cancelled by the reply filed 11/16/2008.
- Claims 31, 37, 38, 41, 46-48 and new claims 58-60 are currently pending.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 47 & 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 37, line 3: "current to flow through the heating means" is vague and indefinite because it is unclear as to what type of current (hot water current, electric current, etc.) applicant is referring. Note that claims 31 and 37 do not clearly set forth what type of energy the claimed apparatus is utilizing to heat the heating means.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31, 37, 38, 41, 46-48, 56 & 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balzer et al. (US 3,823,054) in view of Perloff (US 4,835,945).

- With respect to claims 31, 59 & 60, Balzer discloses an apparatus for sealing a substantially planar film (24) to a packaging tray (43) comprising: a base (10) having a planar support member (42) that has a pocket for receiving a packaging tray (43); a lid (58) hinged to the base (10); and heating elements embedded in a silicon rubber pad (col. 3, lines 23-35) and attached to the lid (58); wherein the heating elements embedded in the silicon pad trace a path over the surface of the planar support member (42) which encircles the pocket in the planar support member (42) (col. 3, lines 27-35; FIG. 5). The apparatus of Balzer meets all of applicant's claimed subject matter but lacks the specific teaching of the support member including a plurality of pockets for accommodating a plurality of receptacles formed on the packaging tray. Perloff discloses a sealing apparatus for sealing a card (54) to a plastic sheet (48) having a planar part and a plurality of receptacle (52); wherein the sealing apparatus of Perloff comprises a support member (12) having a planar part and a plurality of pockets (46) formed thereon

for receiving the plurality of receptacles (56) of the plastic sheet (48), and a hinged lid (28) for sandwiching the card (54) and the plastic sheet against the support member (12). The apparatus of Perloff utilize pressure adhesive coated on a surface of the card (54) to seal the card (54) to the plastic sheet (48) without using heat; however, Perloff teaches the desire for sealing plastic sheet having a plurality of receptacles to form a blister package by placing the plastic sheet (48) on the support member (12) to expose only the planar part of the plastic sheet to the hinged lid of the sealing apparatus such that the planar part of the plastic sheet (48) withstands the pressure from the hinged lid (28) during the forming of a seal on the planar part of the plastic sheet (48) that encircles each of the plurality of receptacles (56). Therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have modified the apparatus of Balzer by having provided the support member with a plurality of pockets in order to accommodate a plurality of receptacles on a blister packaging sheet, as taught by Perloff, and to have configured the heating elements to trace a path that would encircle each of the receptacles, as taught by Balzer at col. 3, lines 23-35, so that each of the receptacles of the blister packaging sheet would be sealed, as taught by Perloff. Regarding the heating elements being formed from etched foil as claimed in claim 60, it would have been obvious to a skilled person in the art as a matter of engineering desired choice to form the heating elements from etched foil because heating elements can be formed from either etched foil, stamped elements, wound wire serpentine or thin metallic sheets, each of which would

yield the same result; and since the heating elements being formed from etched foil does not solve any stated problem insofar as the record is concerned, it does not patentably distinguish the claimed invention over the applied prior art.

- With respect to claim 37 & 38, the modified apparatus of Balzer would include the lid (58) hinged to the base (10) between an open position and a close position.
- With respect to claim 41, the specification does not clearly specify what the catch means consists of; therefore, the catch means is not considered to be a "means plus function," thus the handle (66) on the lid (58) and the hinge connecting the lid (58) to the base (10) in the modified apparatus of Balzer are considered to be the claimed catch means because together they serve to hold the lid (58) firmly against the base (10) in the close position.
- With respect to claim 46, the modified apparatus of Balzer is for sealing a plastic film (24) to a thermoformed packaging tray (43), the heating elements in the modified machine of Balzer is full capable of being adapted to heat plastic film to the sealing temperature, and the optimal sealing temperature is well within the knowledge of a skilled artisan; therefore, the heating elements being adapted to heat the contacted area to a temperature of at least 100°C would have been obvious to the skilled artisan in order to seal the plastic film to the blister packaging sheet.
- With respect to claim 47, the modified apparatus of Balzer would have included a switch (94) that causes an electric current to flow through the heating elements (col. 4, lines 5-10).

- With respect to claim 48, the modified apparatus of Balzer would have included a temperature control (86) that preset the sealing temperature which serve to regulate electric current flowing through the heating elements in response to the temperature of the heating elements.

6. Claim 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balzer et al. (US 3,823,054) in view of Perloff (US 4,835,945) as applied to claim 31 above; and further in view of Official Notice.

- With respect to claim 58, the modified apparatus of Balzer meets all of applicant's claimed subject matter but lacks the specific teaching of the heating means comprises a first heating element attached to the planar part of the base and a second heating element attached to the lid; however, applying heat to seal a package using cooperating heat sealing elements on opposite side of the package to be sealed is old and well known in the art of packaging in order to shorten the sealing time since both sides of the package are heated simultaneously; therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have further modified the apparatus of Balzer by having provided heating elements attached to the base (10) in order to heat the blister packaging sheet simultaneously with the heating of the plastic film, thus reducing the sealing time.

*Response to Arguments*

7. Applicant's arguments with respect to claim 31 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

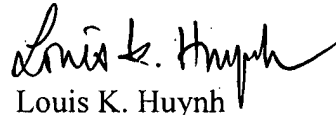
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Louis K. Huynh  
Primary Examiner  
Art Unit 3721

January 16, 2007